

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim Amendments

Claim 1 has been amended to require that at least one of X1 and X3 be a transduction domain. Support for this amendment is found at page 11, lines 8-9.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-7 are now pending in this application.

Restriction Requirement

Applicants hereby affirm the election of Group 1 (Claims 1-2) in response to the telephonic restriction requirement. Applicants reserve the right to prosecute the subject matter of the non-elected claims in a continuation or divisional application or to request rejoinder when the elected subject is allowed.

Rejection under 35 U.S.C. 102(b) in view of Uematsu (JP2001278894)

The Examiner refers to paragraph 13 of Uematsu and notes that “the reference teaches peptide of the sequence WLRRAS”. However, Uematsu does not teach transduction domains as part of the polypeptide. Claim 1 has been amended to require that either X1 or X3 be a transduction domain. As such, Claim 1 is novel in view of Uematsu. Moreover, Uematsu provides no reason to add a transduction domain to the disclosed polypeptides, or any reason to believe that a beneficial effect could be achieved by doing so. As such, Claim 1 is also non-obvious in view of Uematsu.

Rejection under 35 U.S.C. 102(b) in view of Brophy (US20030060399)

The Examiner notes that Brophy "teaches peptides of the sequence X1-X2-[X3A(X4)APLP-X5-]n-X6".

It is noted that Claim 1 uses "consisting" language with respect to the amino acid sequence of the polypeptide. It is further noted that the definition of X2, although reciting "AP", does not recite "APLP" as taught by Brophy. Because the language of Claim 1 is closed, "APLP" is not encompassed, and the claim is therefore novel.

Brophy provides no reason to believe that peptides without the "LP" would have any useful biological function. As such, the claimed polypeptides are also non-obvious in view of Brophy.

Double Patenting Rejections in View of U.S. Patent Nos. 7,135,453 and 7,381,699

As the Examiner notes, the claims of both of these patents require the sequence X1-X2-[X3A(X4)APLP-X5-]n-X6. As discussed in the section above responding to the novelty rejection in view of Brophy, Claim 1 does permit the APLP tetramer to be in the recited polypeptide and, as such, is novel and non-obvious. Withdrawal of the rejection is requested.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to

Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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